

REMARKS/ARGUMENTS

Claims 18-38 stand in the present application. Reconsideration and favorable action is respectfully requested in view of the following remarks.

In the Office Action, the Examiner has rejected claims 18-38 under 35 U.S.C. § 103(a) as being unpatentable over Gallant et al. in view of Albrow et al. Applicants respectfully traverse the Examiner's § 103 rejection of the claims.

Applicants' invention is based on an appreciation of the fact that, despite messaging not being a "real-time" operation, the performance of messaging platforms can be improved by providing an overload controller. Overload controllers are known in various fields, but until the present application Applicants were not aware of their ever having been used in messaging platforms. Neither of the two items of prior art relied upon by the Examiner teaches or suggests such a solution.

Gallant professes to address a deficiency in the earlier patent of Allen (USP 5,313,515). The deficiency is allegedly that in Allen the "central exchange sends a message waiting notification to the mobile subscriber at every opportunity until the status of the mail box changes to having no unread messages." (See Gallant, col. 1, lines 58-61.) In fact, Allen teaches that when a message is waiting, either the exchange can make a call to the mobile device (and only one such call may be made) or when the user of the mobile device attempts to make a call the exchange can play a "message waiting" recorded announcement. So there is in fact no teaching to send the message at every opportunity. Applicants submit that the playing of the message to a caller (who is in a process in attempting to make a call) does not constitute network traffic – and hence elimination of this playback would not reduce the amount of network traffic.

Indeed, Gallant actually adds to the amount of network traffic by adding the so-called second, third, fourth and fifth message indicators. However, assuming arguendo that Gallant does teach minimization of network traffic, would those of ordinary skill in the art be led to use an overload control mechanism such as that which Albrow proposes in the remote technical field of network access control? Applicants respectfully submit that those of ordinary skill in the art would not have been led to combine these references, as suggested by the Examiner.

For Gallant, network traffic is traffic between the voice mail messaging service and the subscribers to that service. Control of contention in the VMS is simply not relevant here. If you do get contention, the performance of the VMS will presumably decrease – leading to no increase, but will probably decrease – in the number of message calls from the VMS to the subscriber. If you implement contention control, you will again not reduce the number of calls from the VMS to the subscriber.

Albrow concerns an access control scheme for a fixed radio “local loop.” Albrow is concerned with controlling access to the radio channels so as to avoid overloading. In Albrow the access of subscriber units to the radio channels is effectively controlled by the base stations. The base stations send out Aloha slot-list messages (see col. 3, lines 16-21). There is no attempt to control overload in Albrow by limiting the loading of a platform by signals arriving on a control interface.

It is not clear how the Examiner suggests that the Albrow and Gallant references should or would be combined to realize the platform claimed in claim 18. In Albrow, because the base stations control access by the subscribers stations to the commodity whose usage must be regulated, it is easy for control to be implemented. The control

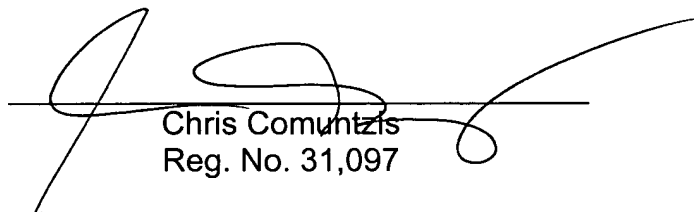
process results in subscriber stations being denied access to the radio channels and hence no calls are made – eliminating any overload. It is hard to see how Albrow's system could be implemented in a messaging system. Thus, even if it would have been obvious to combine the references, which Applicants do not agree would have been the case, the present inventions still would not have resulted without further non-obvious modification of the combined references.

Therefore, in view of the above remarks, it is respectfully requested that the application be reconsidered and that all of claims 18-38, standing in the application, be allowed and that the case be passed to issue. If there are any other issues remaining which the Examiner believes could be resolved through either a supplemental response or an Examiner's amendment, the Examiner is respectfully requested to contact the undersigned at the local telephone exchange indicated below.

Respectfully submitted,

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